

State to appeal housing order for retarded

By ANEMONA HARTOCOLLIS

A federal judge's controversial order to house the mentally retarded in three-bed apartments has not proved workable, and the state will ask the judge to repeal it. James E. Introne, the state's commissioner for mental retardation, said yesterday.

"We've tried like hell to find sites and care providers at a reasonable cost," Introne said. "After a year of frustration, we're not convinced of the merits."

The order, signed 14 months ago, was intended to upgrade care for 140 retarded patients at the Flower & Fifth Avenue Hospital in Manhattan, who would be transferred to the small apartments.

Before being moved to the hospital, the patients were treated at the Staten Island Developmental Center, Willowbrook.

Albany lawmakers opposed the judge's order, which they cited in refusing some related funds requested by the Office for Mental Retardation and Developmental Disabilities.

But advocacy groups for the mentally retarded argued vociferously for the three-bed requirement.

"You don't relieve somebody from a constitutional duty because it's hard to do it," Christopher Hansen, a lawyer for the New York Civil Liberties Union (NYCLU), yesterday said referring to the state's obligation to provide humane treatment for the retarded.

Since February 1979 the state has placed only 23 of the 140 patients affected by the court order in three-bedroom apartments, according to mental retardation officials.

Hansen added that the NYCLU is deliberating whether to seek a contempt order against the state on a related issue.

He charged state officials with reneging on the Willowbrook Consent Decree, a 1975 agreement reached in federal court to improve conditions at the Staten Island Developmental Center.

Introne said he has tried "in good conscience" to comply with the decree.

The commissioner said he would ask Brooklyn Federal Court Judge John R. Bartels to permit the state to establish 10- to 20-bed apartments instead of the smaller size.

"I think it's better for all clients to be out of institutions," he said. "Where out of institutions is the question, I would like to have the flexibility to develop a program that I think is responsive to client needs, not to artificial size requirements."

Murray B. Schneps, a court-appointed monitor of the Willowbrook institution, was instrumental in obtaining the order for three-bed apartments. "What's the difference between a 20-bed unit and Flower Fifth Avenue?" he asked.

"The state's idea is that if you put one person at one end of the ward, they can see everybody in the ward. You can pretend you have staff coverage. You could accomplish the same thing by putting in a TV camera and having somebody sit at a desk and scan seven wards at a time," Schneps said.

"If these people are going to receive the kind of attention they require, they ought to be in the smallest possible environment," he continued.

While conceding that "We haven't demonstrated this through a formal analysis," Introne said he had observed that "the benefits for the severely retarded tail off once you reach a smaller setting."

He said patients at the Flower & Fifth Avenue Hospital are clustered at the worst end of the disability spectrum. In addition to being severely and profoundly retarded, many of them suffer from physical ailments requiring complicated equipment such as respirators.

"The support services that may be necessary increase costs dramatically, and they outweigh the benefits of a smaller setting," according to Introne.

Schneps, however, whose wife Vicki heads a non-profit agency that operates three-bed apartments for the retarded, said officials "should be complaining bitterly about money at a place like Flower-Fifth Avenue. The state is spending in excess of \$100,000 per individual there."

Schneps is one of seven experts and consumers who form the Willowbrook Review Panel, a court-appointed panel to monitor care for former and current residents of the Staten Island Developmental Center.

The panel still reports to Judge Bartels, although the state Legislature refused to continue funding it last spring. The three-bed policy in particular, aroused the legislators' opposition.

Assemblywoman Elizabeth A. Connelly, D-West Brighton, and Sen. Frank Padavan, R-Queens, accused the panel of forcing the state to squander money on the apartments, and the Legislature cut back the proposed budget for community placement.